

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA**

In re:

Fernisa L Parker
Debtor(s)

Case No. 05-12674

Fernisa L Parker
Plaintiff(s)

vs.

District Court No. 07-00737-MHT

Pioneer Credit Company of Alabama, Inc.
Defendants

AMENDED TRANSMITTAL

I, Dianne M. Segrest, do hereby certify that the documents herein comprise the Appellee Designation of Contents filed in the above referenced case.

BK Docket #38 Attachment #1 - Affidavit of Michael D. Brock
Attachment #2 - Affidavit of David G. Poston

In witness Whereof, I have hereunto subscribe my name and affixed the seal of said court at Montgomery in said district on this day of October 23, 2007.

**RICHARD S. ODA, CLERK
UNITED STATES BANKRUPTCY COURT**

/s/ Dianne M. Segrest
Deputy Clerk

IN THE UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

IN RE:)	
)	
FERNISA PARKER,)	BANKRUPTCY CASE NUMBER
)	05-12674
DEBTOR)	(CHAPTER 13 CASE)

FERNISA PARKER,)	
)	
PLAINTIFF,)	
)	
VS.)	AP# 06-1139
)	
PIONEER CREDIT COMPANY OF ALABAMA, INC.,)	
D/B/A FIRST SOUTHEAST ACCEPTANCE)	
CORPORATION,)	
)	
DEFENDANT.)	

AFFIDAVIT OF DAVID G. POSTON IN SUPPORT OF REQUEST FOR ATTORNEY FEES

David G. Poston declares under penalty of perjury, as provided for by the laws of the United States 28 U.S.C. § 1746, that the following statements are true:

1. I am a member in good standing of the following Courts:

Supreme Court of Alabama, Montgomery, Alabama, April 29, 1991.

United States Circuit Court of Appeals for the Eleventh Circuit.

United States District Court for the Middle District of Alabama, Montgomery, Alabama, September 9, 1992.

United States District Court for the Northern District of Alabama, Birmingham, Alabama, July 21, 1992.

United States District Court for the Southern District of Alabama, Mobile, Alabama, March 30, 2007.

2. I am a 1983 graduate of Florida State University and a 1991 graduate of The Cumberland School of Law, of Samford University. I am a member of the Alabama State Bar and the National Association of Consumer Advocates.

3. My legal employment is as follows:

- a) From March 1991 through August 1992, I was the Judicial Law Clerk for the Honorable L.C. Watson, Jr. (ret.), and the Honorable James S. Sledge, United States Bankruptcy Judges for the Northern District of Alabama, Eastern Division.
- b) In August 1992 I opened my law practice as David G. Poston, Attorney at Law practicing almost exclusively in the area of consumer bankruptcy law. I worked as a sole practitioner from August 1992 until December 1998.
- c) From January 1999, until December 31, 1999, I was a partner in the law firm of Espy, Metcalf & Poston, P.C., with an office located in Dothan, Alabama. My practice was limited primarily to representing consumers with particular emphasis on representing consumer debtors in The United States Bankruptcy Court under the United States Bankruptcy Code.
- d) From January 1, 2000 until March 31, 2006, I was the sole shareholder of David G. Poston, P.C. During this time I shared offices with Collier H. Espy, Jr., Esq. and Cameron A. Metcalf, Esq. My practice was limited primarily to representing consumers with particular emphasis on representing consumer debtors in The United States Bankruptcy Court under the United States Bankruptcy Code.
- e) Beginning in 2003, I expanded my practice to representing consumer debtors under the Fair Debt Collection Practices Act and the Fair Credit Reporting Act.
- f) From April 1, 2006, until the present time, I am a partner in the law firm of Brock & Stout, overseeing the Consumer Litigation Department. The Consumer Litigation Department represents only consumers as it pertains to consumer related issues such as violation of the bankruptcy automatic stay, the Fair Debt Collection Practices Act, the Fair Credit Reporting Act, and mortgage abuse cases.

4. I have authored or contributed to the following publications:

- a) Note, *Gone Today and Here Tomorrow: Damage Recovery for Subsequent Developing Latent Diseases in Toxic Tort Exposure Actions*, 14 AM. J. TRIAL ADVOC. 159 (1990).
- b) J. Mendelsohn: *Liquor Liability In Alabama*, 13 AM. J. TRIAL ADVOC. 825 (1989).

5. I have lectured to professional groups or taught on consumer law issues including:

- a) Houston County CPA Association, 1997, Consumer Bankruptcy Law.
- b) Bay County, Florida, CPA Association, 1996, Consumer Bankruptcy Law.
- c) Troy State University at Dothan, Alabama, 1995-1998, Bankruptcy for Paralegals.

6. I have been involved in over 3,177 debtor bankruptcy cases in the United States Bankruptcy Court including numerous chapter 7 and chapter 13 consumer bankruptcy cases. Furthermore, I estimate that I have represented consumers in over ninety-nine (99) percent of the these cases.

7. Prior to my partnership with the law firm of Brock & Stout, LLC., I filed approximately 190 consumer lawsuits in the United States Bankruptcy Court and the United States District Court.

8. Since my partnership with the law firm of Brock & Stout, LLC., the Consumer Litigation Department has filed over 140 lawsuits in the United States Bankruptcy Court and the United States District Court.

9. Very few Alabama attorneys are willing to accept consumer cases because of the special expertise required and the risk of nonpayment. Even fewer are willing to accept FDCPA cases. I am requesting attorney fees at the rate of \$215.00 per hour for services provided from January 1, 2006 to July 31, 2006; and, a rate of \$250.00 per hour for services provided from August 1, 2006 to present. I believe the amount requested is reasonable and is less than the rates being charged by many attorneys with similar experience and expertise in Alabama Federal and State Courts.

10. My standard hourly billing rate throughout this litigation has been \$215.00 per hour and \$250.00 per hour. This is the rate that I charge consumer clients for representation in consumer cases for 2006 and 2007.

11. The United States Attorney's Office for the District of Columbia sets forth a "Laffey Matrix" which provides for a reasonable hourly rate for attorneys with various legal experience. Because I have practiced in consumer law since 1992, this places me with experience of between eleven (11) and nineteen (19) years. The Laffey Matrix for the year 2003 through 2004 provides for a presumptive reasonable rate of \$335 per hour. A copy of the Laffey Matrix from the United States Attorney's Office for the District of Columbia is attached hereto as Exhibit "B."

12. At present, my caseload consists exclusively of consumer litigation and other consumer matters. I undertake representation in the FDCPA cases with the expectation of being paid a contingency amount from the proceeds of recovery or being paid based on an award of fees pursuant to a fees shifting statute such as the FDCPA. I also represent consumers on the basis of fees paid to me by the client. In those cases, the rate of compensation that I require for my services has been based on an hourly rate of \$215.00 and \$250.00.

13. I expended a total of **28.54** hours in this adversary proceeding. My contemporaneous time records reflecting my services in this litigation are attached hereto as Exhibit "A."

14. The reasonable hourly rate for my services is \$215.00 and \$250.00.

15. The loadstar calculation of attorney fees for my time expended is (6.26 hours at \$215.00/hr = \$1,345.90 (+) 22.28 hours at \$250.00/hr = \$5,570.00 = **\$6,915.90**).

16. My Paralegal's time thus-far is 3.75 hours at \$70.00 per hour for services provided from January 1, 2006 to July 31, 2006, plus 15.50 hours at \$75.00 per hour for services provided from August 1, 2006 to present, which comes to **\$1,425.00**.

17. My Associate Attorney's time thus-far is 4.70 hours at \$125.00 per hour, which comes to **\$587.50.**

18. The law firm of Brock & Stout, LLC. advanced the following fees and costs and incurred the following expenses in this matter:

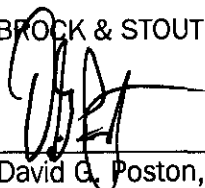
- a) Envelope expense of 6 small envelopes @ \$0.25 each = \$1.50;
- b) Postage of \$3.30;
- c) Photocopying expense of 264 copies @ \$0.25 each = \$66.00;
- d) Deposition costs of \$322.25.

19. The total fees, costs, and expenses I am requesting equals **\$9,321.45.**

The foregoing is true and correct to the best of my knowledge, information, and belief and assigned under penalty of perjury on this 1st day of June, 2007. Further affiant saith not.

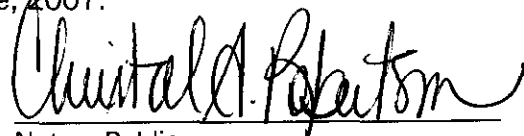
Respectfully submitted,

BROCK & STOUT



David G. Poston, Esq.
Walter A. Blakeney, Esq.
Michael D. Brock, Esq.
Gary W. Stout, Esq.
Post Office Drawer 311167
Enterprise, Alabama 36330
334-671-5555
334-671-2689 Facsimile
Email: christal@circlecitylaw.com

and subscribed before me this 1st day of June, 2007.



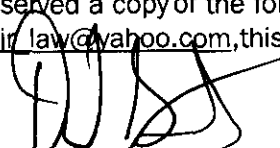
Notary Public

My Commission Exp.

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Apr 19, 2011
BONDED THROUGH MY PUBLIC UNDERWRITERS

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I have this date served a copy of the foregoing upon Thadius W. Morgan, Jr., Attorney for Defendant, via electronic mail at twmjr_law@yahoo.com, this the 1st day of June, 2007:



David G. Poston

IN THE UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

IN RE:)	
)	
FERNISA PARKER,)	BANKRUPTCY CASE NUMBER
)	05-12674
DEBTOR)	(CHAPTER 13 CASE)

FERNISA PARKER,)	
)	
PLAINTIFF,)	
)	
VS.)	AP# 06-1139
)	
PIONEER CREDIT COMPANY OF ALABAMA, INC.,)	
D/B/A FIRST SOUTHEAST ACCEPTANCE)	
CORPORATION,)	
)	
DEFENDANT.)	

AFFIDAVIT OF MICHAEL D. BROCK IN SUPPORT OF REQUEST FOR ATTORNEY FEES

Michael D. Brock declares under penalty of perjury, as provided for by the laws of the United States 28 U.S.C. § 1746, that the following statements are true:

1. I am a member in good standing of the following Courts:

Supreme Court of Alabama, Montgomery, Alabama.

United States District Court for the Middle District of Alabama, Montgomery, Alabama.

2. I am a graduate of Louisiana State University and a graduate of the University of Arkansas School of Law. I am a member of the Alabama State Bar, the National Association of Consumer Advocates, and the National Association of Consumer Bankruptcy Attorneys.

3. My legal employment is with the law firm of Brock & Stout, LLC.

4. I estimate that I have filed over 8,000 cases in the United States Bankruptcy court consisting of numerous chapter 7 and chapter 13 consumer bankruptcy cases.

5. Since the establishment of our Consumer Litigation Department, our firm has filed over 140 lawsuits in the United States Bankruptcy Court and the United States District Court.

6. Very few Alabama attorneys are willing to accept consumer cases because of the special expertise required and the risk of nonpayment. Even fewer are willing to accept FDCPA cases. I am requesting attorney fees at the rate of \$215.00 per hour for services provided from April 1, 2006 to July

31, 2006; and, a rate of \$250.00 per hour for services provided from August 1, 2006 to present. I believe the amount requested is reasonable and is less than the rates being charged by many attorneys with similar experience and expertise in Alabama Federal and State Courts.

7. My standard hourly billing rate throughout this litigation has been \$215.00 per hour and \$250.00 per hour. This is the rate that I charge consumer clients for representation in consumer cases for 2006 and 2007.

8. The United States Attorney's Office for the District of Columbia sets forth a "Laffey Matrix" which provides for a reasonable hourly rate for attorneys with various legal experience. Because I have practiced in consumer law since 1994, this places me with experience of between eleven (11) and nineteen (19) years. The Laffey Matrix for the year 2003 through 2004 provides for a presumptive reasonable rate of \$335 per hour. A copy of the Laffey Matrix from the United States Attorney's Office for the District of Columbia is attached hereto as Exhibit "B."

9. At present, my caseload consists exclusively of consumer bankruptcy cases, consumer litigation, and other consumer matters. I undertake representation in the FDCPA cases with the expectation of being paid a contingency amount from the proceeds of recovery or being paid based on an award of fees pursuant to a fees shifting statute such as the FDCPA. I also represent consumers on the basis of fees paid to me by the client. In those cases, the rate of compensation that I require for my services has been based on an hourly rate of \$215.00 and \$250.00.

10. I expended a total of 13.95 hours in this adversary proceeding. My contemporaneous time records reflecting my services in this litigation are attached hereto as Exhibit "A."

11. The reasonable hourly rate for my services is \$215.00 and \$250.00.

12. The loadstar calculation of attorney fees for my time expended is (.50 hours at \$215.00/hr = \$107.50 (+) 13.45 hours at \$250.00/hr = **\$3,470.00**).

13. The total amount of fees I am requesting equals **\$3,470.00**.

The foregoing is true and correct to the best of my knowledge, information, and belief and assigned under penalty of perjury on this 1st day of June, 2007. Further affiant saith not.

Respectfully submitted,

BROCK & STOUT



Michael D. Brock, Esq.
David G. Poston, Esq.
Walter A. Blakeney, Esq.
Gary W. Stout, Esq.
Post Office Drawer 311167
Enterprise, Alabama 36330
334-671-5555
334-671-2689 Facsimile
Email: christal@circlecitylaw.com

Sworn and subscribed before me this 1st day of June, 2007.



Crystal A. Robertson
Notary Public

My Commission Exp.:

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Apr 19, 2011
BONDED THRU NOTARY PUBLIC UNDERWRITERS

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I have this date served a copy of the foregoing upon Thadius W. Morgan, Jr., Esq., Attorney for Defendant, by electronic mail at twmir_law@yahoo.com this the 1st day of June, 2007:

Michael D. Brock